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C O N F I D E N T I A L SECTION 01 OF 02 TAIPEI 001839

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SUBJECT: KMT PRESIDENTIAL CANDIDATE MA YING-JEOU ACQUITTED
IN FIRST CORRUPTION TRIAL

Classified By: Deputy Director Robert S. Wang, Reason(s): 1.4 (B/D).

¶1. (U) Summary: On August 14, a three-judge panel of the Taiwan District Court acquitted KMT presidential candidate Ma Ying-jeou of all corruption and breach-of-trust charges stemming from alleged misuse of Taipei special mayoral funds. Welcoming the decision, Ma urged prosecutors to let the matter rest. The prosecutor's office issued a statement voicing "respect" for the verdict, but did not answer the question of a possible prosecutorial appeal. Media outlets predicted that, should prosecutors seek an appeal, the second verdict could be rendered sometime between December 2006 and February 2007, just before the March 22, 2008 presidential election. With his "clean" image at least partially restored, Ma will most likely get a popularity boost, but he's not free and clear yet. End Summary.

Candidacy on the Line

¶2. (U) On February 13, then-KMT Chairman Ma Ying-jeou was charged with corruption for allegedly diverting NT \$11 million (US \$360,000) of mayoral office funds into personal accounts during his eight-year term as Taipei mayor. If convicted of all charges in the original indictment, Ma could have been sentenced to a minimum of seven years in jail, and a fine of up to NT \$60 million (US \$2 million). In late July, prosecutors amended the indictment to add a "breach of trust" charge, and sought to increase the maximum prison sentence by one-half. If convicted of all charges in the amended indictment, Ma could have been fined and sentenced to up to 14 years in prison. Under Taiwan's Presidential Election and Recall Law, a conviction carrying a sentence of ten years or more would have barred Ma from participating in the presidential race. (Note: Any corruption conviction, regardless of prison sentence, would also have rendered Ma ineligible, but only after the third and final trial. End note.)

Ma Acquitted of All Charges

¶3. (U) On August 14, a three-judge panel of the Taiwan District Court acquitted KMT presidential candidate Ma Ying-jeou of all corruption and breach-of-trust charges brought against him by the Taipei District Court Prosecutor's Office. District Court spokesman Liu Shou-sung told the

press that the panel had concluded that the type of special expense accounts at issue in Ma's case had been "broadly defined" as subsidies to senior government officials since 1973, and that government officials like Ma "have the flexibility" to use these funds at their own discretion. Liu added that the court also found that Ma "had no criminal intent" to defraud the public or to enrich himself.

Prosecutors Mum on Appeal

¶4. (U) Later on August 14, Hou Kuan-jen, the prosecutor who indicted Ma, stated publicly that he "respected" the court decision. According to Hou, the District Court Prosecutor's Office will review the verdict and decide whether to appeal the case to the Taiwan High Court. Any request for appeal must be filed within ten days of the verdict. Under Taiwan's three-trial criminal justice system, prosecutors have the discretion to seek reversal of the initial verdict on appeal.

If an appeal is filed, media outlets say, the appeals court could issue its verdict some time between December 2007 and February 2008, just weeks before the March 22, 2008 presidential election.

Ma Urges Halt to Special Funds Investigations

¶5. (U) Ma convened a press conference two hours after the "not guilty" verdict was announced. In a brief statement, he told reporters that he had insisted upon his innocence throughout the trial process, and was pleased by the result. Describing the stress to which he has been subjected during the past six months, Ma called upon prosecutors to stop

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"wasting time and money" investigating and prosecuting "special accounts" cases. Some 6,500 other public officials, both KMT and DPP, had access to similar discretionary-use accounts, Ma noted, and it would take 1,000 prosecutors ten years to investigate and prosecute them all. Ma declined to speculate on the possibility of an appeal, or how a second-stage guilty verdict might affect his presidential chances.

DPP Objects

¶6. (U) President Chen Shui-bian and Premier Chang Chun-hsiung refused to comment on the verdict. Vice President Annette Lu told the press she "respected" the judicial system, and added that the case would not be decided until the third trial court handed down its verdict. DPP presidential candidate Frank Hsieh (Chang-ting) had no immediate comment. DPP legislative caucus whip Ko Chien-ming told the media he was "not surprised" by the verdict, but insisted that Ma's "political credibility" had been destroyed. Ko pledged the DPP legislative caucus would publicly support the prosecutors' decision to file an appeal. At a DPP Headquarters press conference, Secretary General Lin Chia-long criticized the court decision in detail, which he predicted would be reversed on appeal.

What Happens Next?

¶7. (C) Pro-Green Academia Sinica scholar Hsu Yung-ming told AIT that the trial outcome was not a surprise as most people had been expecting a not-guilty verdict. However, the judgment is controversial, he added, and the prosecutor will definitely appeal the court's decision. Other Taiwan politicians may breathe a sigh of relief over a verdict that potentially could help them fight off similar charges of misuse of special funds. Pan-Blue supporters will be overjoyed, the pan-Green will be angry, and the court decision will likely help Ma's standing with moderate swing voters. Ma will probably enjoy a short-term boost in the

polls and the strengthening of his position will increase his room for maneuver in the campaign. LY speaker Wang Jin-pyng, poised to take over should Ma falter, will have no chance to become the KMT presidential candidate. DPP candidate Frank Hsieh announced that he has invited former premier Su Tseng-chang to be his running mate, which will create a

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formidable DPP team to contest with Ma and his vice-presidential candidate, Vincent Siew. Hsieh's move, and Su's expected acceptance, will shift the focus of DPP supporters away from the Ma case and toward the theme of pan-Green solidarity. There is a long time between now and the election, Hsu pointed out, and much can happen.
YOUNG